

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WILLIAM J. WAGNER,

Plaintiff,

v.

Civil Action No.1:15-cv-633-FPG

CHIARI & ILECKI, LLP,

Defendant.

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**AFFIRMATION OF KENNETH R. HILLER**

Kenneth R. Hiller, an attorney at law, affirms under penalties of perjury that the following statements are true and correct:

1. That I am an attorney of record for the Plaintiff.
2. This affirmation is submitted in support of Plaintiff's Motion for Partial Summary Judgment.
3. Annexed as Exhibit "A" is a redacted copy of Plaintiff's Social Security Card.
4. Annexed as Exhibit "B" is a redacted copy of Plaintiff's Drivers License.
5. Annexed as Exhibit "C" is a true and correct copy of Plaintiff's complaint in this action.
6. Annexed as Exhibit "D" is a true and correct copy of Defendant's answer in this action.
7. Annexed as Exhibit "E" are true and correct copies of the publically available August 8, 1994 deed to William J. Wagner and Julia L. Wagner, and the August 8, 1984 mortgage listing William J. Wagner and Julia L. Wagner as mortgagors.
8. Annexed as Exhibit "F" is a true and correct copy of the publically available March 19, 2015 home equity line of credit mortgage naming William J. Wagner and Julia L. Wagner as mortgagees.

9. Annexed hereto as Exhibit “G” is a true and correct copy of the publically available April 23, 2015 deed from William J. Wagner and Julia L. Wagner to William J. Wagner.

10. Annexed as Exhibit “H” is a true and correct copy of cited excerpts of the October 5, 2016 deposition of William J. Wagner (“Wagner Dep.”).

11. Annexed as Exhibit “I” is a true and correct copy of cited excerpts of the October 5, 2016 deposition of Defendant’s corporate representative, William J. Ilecki (“Ilecki Dep.”).

12. On March 28, 2016, Plaintiff served Plaintiff’s First Request for Production of Documents on Defendant. Annexed as Exhibit “J” are Defendant’s Responses to those Requests.

13. Annexed hereto as Exhibit J-1 are the relevant, redacted documents provided by Defendant in response to Plaintiff’s First Request for Production of Documents. The redactions were made to comply with Rule 5.2 of the Federal Rules of Civil Procedure. Portions of the Bates No. 166 were redacted as they contain information not relevant to these proceedings and not properly considered by this Court. At the depositions of William J. Ilecki, Melissa Overbeck, and Karen Sandford, pages bearing Bates no. 164-166 without redaction were marked as exhibit A, Bates No. 159 was marked as Exhibit B, Bates No. 192 was marked as Exhibit C, and Bates No. 180-181 was marked as Exhibit D at the depositions of William J. Ilecki, Melissa Overbeck, and Karen Sandford. Bates No. 164 was marked as Exhibit C at the deposition of Plaintiff.

14. On March 28, 2016, Plaintiff served Plaintiff’s First Requests for Admissions on Defendant. Annexed hereto as Exhibit “K” are Defendant’s responses to those Requests.

15. Annexed as Exhibit “L” is a true and correct copy of cited excerpts of the October 5, 2016 deposition of Melissa Overbeck (“Overbeck Dep.”).

16. Annexed hereto as Exhibit “M” is a letter dated February 9, 2015 addressed to William J. Wagner, Jr. This letter was marked as Exhibit E at Plaintiff’s deposition and Exhibit F at the depositions of William J. Ilecki, Melissa Overbeck, and Karen Sandford.

17. Annexed as Exhibit “N” is a true and correct copy of cited excerpts of the October 5, 2016 deposition of Karen Sandford (“Sandford Dep.”).

18. Annexed hereto as Exhibit “O” is a true and correct copy of a Post Office receipt bearing tracking number 0000196605798.

19. Annexed hereto as Exhibit “P” is a true and correct copy of a Post Office receipt dated March 19, 2015 (year omitted on receipt).

20. Annexed hereto as Exhibit “Q” is a Subpoena Duces Tecum with Restraining Notice served on Plaintiff. This exhibit was marked as Exhibit D at Plaintiff’s deposition, and as Exhibit E at the depositions of William J. Ilecki, Melissa Overbeck, and Karen Sandford.

21. On March 28, 2016, Plaintiff served Plaintiff’s First Set of Interrogatories on Defendant. Annexed hereto as Exhibit “R” are Defendant’s responses to those interrogatories.

Dated: January 17, 2017

s/Kenneth R. Hiller  
Kenneth R. Hiller